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**Date: November 8, 2002**

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**Comments: US Patent Application No. 09/788,280**  
**For: PROTEOSOME INFLUENZA VACCINE**  
**Attorney Docket Number: 405352000600**



**25225**

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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	09/788,280	
	Filing Date	February 15, 2001	
	First Named Inventor	David S. BURT, et al.	
	Group Art Unit	1648	
	Examiner Name	U. Winkler	
Total Number Of Pages In This Submission	4	Attorney Docket No.	405352000600

**ENCLOSURES (check all that apply)**

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Response to Restriction Requirement	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declarations	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application	Remarks	 <b>25225</b> PATENT TRADEMARK OFFICE
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

**SIGNATURE OF APPLICANT, ATTORNEY OR AGENT**

Firm or Individual Name	Karen B. Dow Reg. No. 29,684
Signature	<i>Karen Babyak Dow</i>
Date	November 8, 2002

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*Nora Durant*  
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sd-118530

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PATENT  
Docket No. 405352000600#17  
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11/14/02

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Nora Durant

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

David S. BURT et al.

Serial No.: 09/788,280

Filing Date: February 15, 2001

For: PROTEOSOME INFLUENZA  
VACCINE

Examiner: Ulrike Winkler

Group Art Unit: 1648

## RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

This is in response to the Office Action, dated October 8, 2002, for which a response is due on November 8, 2002.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-8, 14-22, 35-49, 56 drawn to a method of preparing a vaccine by combining an antigen in with a proteosome in the presence of a detergent followed by removing the detergent, classified in class 424, subclass 206.1.

II. Claims 23-27, 57 drawn to a method of eliciting an immune response against an infectious agent such as influenza, classified in class 424, subclass 9.2.

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III. Claims 28-30, drawn to an improved method of preparing proteosomes, classified in class 530, subclass 412.

IV. Claims 9-13, 31-34, drawn to a composition a vaccine against an infectious agent, such as influenza, classified in class 424, subclass 209.1.

V. Claims 50, 51, 54, 55, drawn to a composition a vaccine against an allergen, classified in class 424, subclass 275.1.

VI. Claims 50, 52, drawn to a composition a vaccine against a cancer antigen, classified in class 424, subclass 277.1.

VII. Claims 50, 53 drawn to a composition a vaccine against a biologic threat agent, classified in class 424, subclass 236.1.

VIII. Claim 57, drawn to a method of preventing or treating allergies, classified in class 424, subclass 9.2.

IX. Claim 57, drawn to a method of preventing or treating cancer, classified in class 424, subclass 9.2.

X. Claim 57, drawn to a method of preventing or treating exposure to a biologic threat agent, classified in class 424, subclass 9.2.

Applicants hereby elect Group IV (claims 9-13 and 31-34), with traverse. Applicants expressly reserve their right under 35 U.S.C. § 121 to file any divisional applications directed to the nonelected subject matter during the pendency of this application, or an application claiming priority from this application.

Applicants request the recombination of certain groups, since it would not be an undue search burden on the Examiner. For example, most of the restricted groups are identified as within class 424. More importantly, some are within the same subclass 9.2. Therefore, Applicants propose the recombination of Groups II, VIII, IX, and X, all of which are within search class 424 and subclass 9.2. See MPEP §803.

It should be noted that elected Group IV is drawn to compositions or products. As stated in MPEP §821.04, "if applicant elects claims directed to the product and a product claim is

subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined. Applicants, therefore, request rejoinder of claims within Group I.

Applicants request examination of the elected subject matter on the merits.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 405352000600. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Dated: November 8, 2002

By: Karen Babjak Dow  
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Registration No. 29,684

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